

Stephen D. Finestone (125675)
Ryan A. Witthans (301432)
FINESTONE HAYES LLP
456 Montgomery Street, Floor 20
San Francisco, CA 94104
Tel.: (415) 421-2624
Fax: (415) 398-2820
Email: sfinestone@fhllawllp.com
Email: rwitthans@fhllawllp.com

Attorneys for Evander Frank Kane,
Debtor and Defendant.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re

EVANDER FRANK KANE,

Debtor.

HOPE PARKER,

Plaintiff,

v.

EVANDER FRANK KANE,

Debtor and Defendant.

Case No. 21-50028-SLJ
Chapter 7

Adv. Proc. No. 21-5008

**MOTION TO DISMISS ADVERSARY
COMPLAINT¹**

Hearing:

Date: June 15, 2021

Time: 1:30 p.m. Pacific Prevailing Time

Place: Tele/Videoconference

Remote appearances only.

*Please check www.canb.uscourts.gov for
information regarding the Court's operations
due to the COVID-19 pandemic.*

¹ Unless specified otherwise, all chapter and code references are to the Bankruptcy Code, 11 U.S.C. §§ 101–1532. “Bankruptcy Rule” references are to the Federal Rules of Bankruptcy Procedure, “B.L.R.” references are to the Bankruptcy Local Rules for the Northern District of California, and “ECF” references are to the docket in this proceeding.

1 Evander Frank Kane (“Kane”), debtor in the above-captioned Chapter 7 bankruptcy case
2 and defendant in this adversary proceeding, submits this motion to dismiss (the “Motion”) the
3 adversary complaint (the “Complaint”) filed by Hope Parker (“Parker”) on April 1, 2021. ECF 1.
4 Kane seeks dismissal of the Complaint pursuant to Civil Rule 12(b)(6), as incorporated by
5 Bankruptcy Rule 7012, for failure to state a claim upon which relief can be granted.

6 Pursuant to B.L.R. 7012-1, Kane consents to the entry of a final order or judgment of the
7 Bankruptcy Court in this proceeding.

8 This Motion is supported by the concurrently filed memorandum of points and authorities
9 (“MPA”), request for judicial notice, and notice of hearing; the file in the above-captioned
10 adversary proceeding and in the underlying bankruptcy case; and any argument that may be
11 presented at hearing. As set forth more fully in the MPA, Kane respectfully requests that the
12 Bankruptcy Court enter an order that:

- 13 1. Grants this Motion.
- 14 2. Dismisses the Complaint in its entirety. Because there is no conceivable way to cure
15 the deficiencies through amendment, dismissal is requested without leave to amend.
- 16 3. Grants such further relief that the Bankruptcy Court deems proper under the
17 circumstances of this case.

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19 Dated May 3, 2021

FINESTONE HAYES LLP

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21 /s/ Stephen D. Finestone

22 Stephen D. Finestone
23 Attorneys for Evander Frank Kane,
24 Debtor and Defendant.
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